IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 9970 of 2003

Between:

1 B.Israel son of B.Samuel
Chevuru Mudinepalli Mandal , Krishna Dist
2 M.Sreemannarayana son of Satyanarqana
Chevuru Mudinepalli Mandal , Krishna Dist
3 P.Suresh son of Veeranjaneyulu
Chevuru Mudinepalli Mandal , Krishna Dist
4 M.Rajesh Babu son of Veeravenkata Nageswara Rao
Chevuru Mudinepalli Mandal , Krishna Dist

..... PETITIONERS

AND

1 Government of Andhra Pradesh
represented by its Commissioner for Cooperation Registrar of Cooperative Societies Gruhakalpa, M.J. Road, Hyderabad
2 District Cooperative Officer
Krishna District at Machilipatnam, Krishan District
3 Divisional cooperative Officer
Gudivada, Krishna Dist
4 Chevuru Sri Venkateswara Swamy
Primary Agriculture Cooperative society ltd., Chevuru village & Post Mudinepalli Mandal, Krishna Dist. Rep. by its Chair-Person

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of Writ of "Mandamus" or any other appropriate writ declaring the guideline No. 3 of circular Notification Rc. NO.1339/0/2003-D1

dated 17/03/2003 is illegal and arbitrary and without competency; and consequently set aside the same with further direction to continue the services of the petitioners in 4th respondent -Cooperative Society.

Counsel for the Petitioner: SMT.K.UDAYA SRI

Counsel for the Respondent No.: GP FOR COOPERATION

The Court made the following:

ORDER:

The petitioners, who are employees of the 4th respondent Primary Agriculture Co-operative Society, question the guideline No.3 of Circular notification dated 17.3.2003 issued by the 2nd respondent as illegal and contrary to Section 116(c) of A.P.Co-operative Societies Act, 1964 and the rules framed thereunder.

As per Clause 3 of the said guidelines, it is stated that any appointment contrary to Act 2 of 1994 will be declared as illegal and they are liable to be removed from service by giving one month notice or paying the salary in lieu of notice. I have taken the view that Act 2 of 2004 has no application either with regard to appointment or removal of any person in respect of Primary Agricultural Co-operative Society and every Society is bound to follow the mandatory provision under Section 116(c) of the Act fulfilling the conditions stipulated therein either for appointment or for removal.

The writ petition is, accordingly, disposed of with a direction that the respondents shall not take action on the ground that the appointments are contrary to Act 2 of 2004. But, it is open for the respondents to take action either for appointment or removal of the existing staff if their appointments are in violation of the mandatory provisions of Section 116(c) of the Act and the Rules framed thereunder. No order as to costs.

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(V.ESWARAIAH, J.)

8.4.2005

kpr

To

1 The Commissioner for Cooperation & Registrar of Cooperative Societies,

Govt. of Andhra Pradesh, Gruhakalpa, M.J. Road, Hyderabad
2 District Cooperative Officer
Krishna District at Machilipatnam, Krishan District
3 Divisional cooperative Officer
Gudivada, Krishna Dist
4. 2 copies to the Govt. Pleader for Co-operation, High Court Buildings,

Hyderabad.

5. 2 C.D. copies